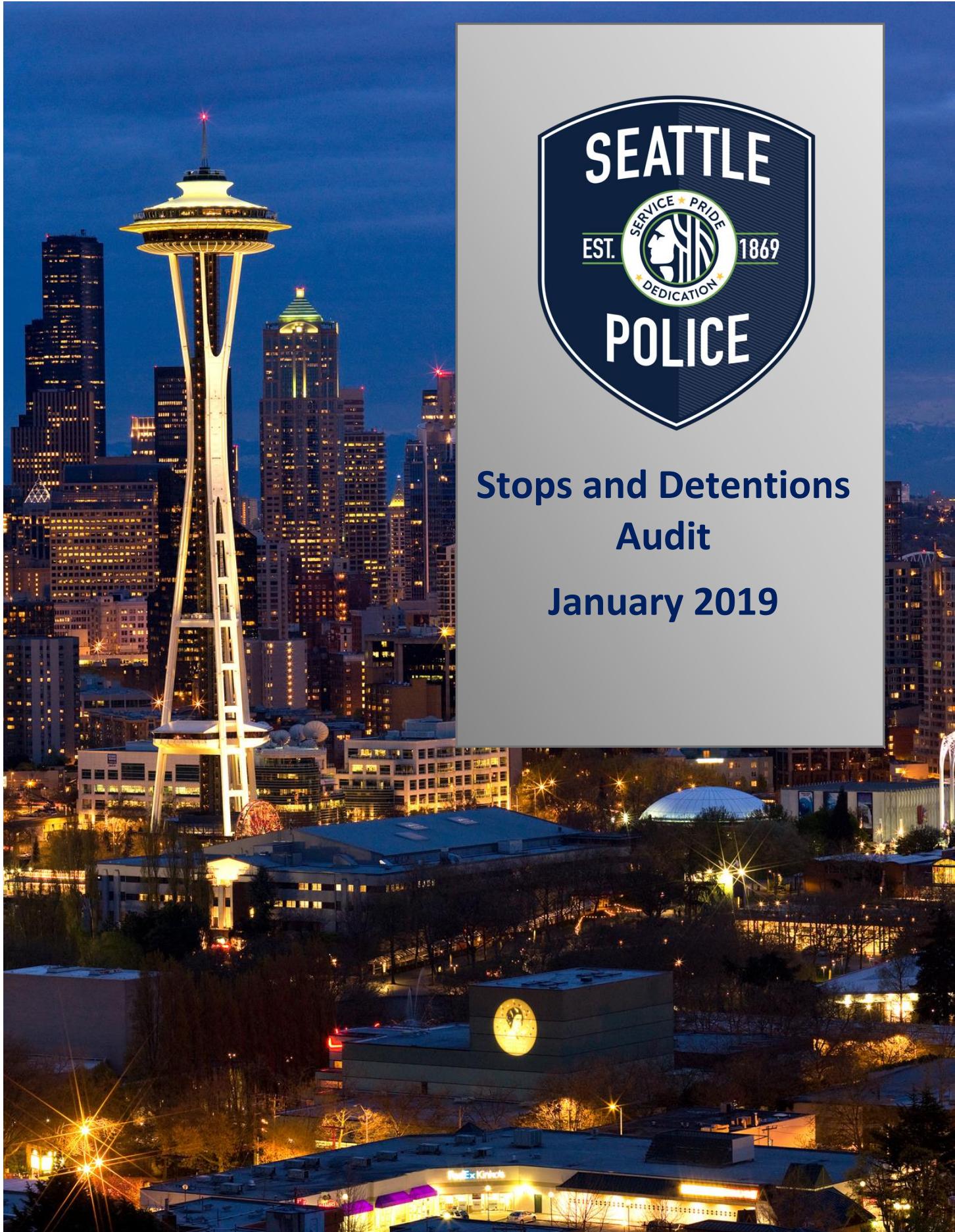




Stops and Detentions Audit

January 2019



Introduction

The Sustainment Plan that governs the Seattle Police Department's obligations with respect to demonstrating that it is maintaining full and effective compliance with the terms of the Consent Decree between the City of Seattle and the United States Department of Justice requires, in each of 2018 and 2019, the Department to issue a report documenting its audit and review of Consent Decree requirements relating to Stops and Detentions. This report is separate from the Department's earlier-released outcome [report](#), published on June 29, 2018, that provides fuller analysis as to all stops and detentions between January 1 and December 31, 2017.

This Report focuses specifically on data surrounding police-civilian contacts that involve the stop and limited detention of an individual for the period from January 1 to June 30, 2018. Known as a *Terry stop*,¹ such contact is authorized under law and policy for purposes of investigating, based on an officer's reasonable suspicion, whether the individual is engaging, has engaged, or is about to engage in criminal activity. During the course of a *Terry stop*, an officer may develop probable cause to effect an arrest, but probable cause is not required to make the initial stop, nor does a stop that is based on probable cause to arrest fall within the category of a *Terry stop*.

To meet this requirement, detectives from SPD's Audit, Policy, and Research Section (APRS) conducted a review of approximately one-third of all contacts reported as *Terry Stops* during the period. Based on a methodology agreed to between the City, SPD, the Monitoring Team, and DOJ, detectives followed an audit instrument originally developed by the Monitoring Team during the course of its work towards its Tenth Systemic Assessment on Stops, Search, and Seizure and sought to determine the extent to which documentation supports that that investigatory stops and searches are supported by reasonable suspicion and consistent with SPD policy, federal or state law.

The results of this audit are as follows:

- Of 1,399 inspections logged, inspectors confirmed 77.6% of stops as *Terry stops*, indicating potential overreporting of *Terry seizures*.
- Of 1,084 stops identified as *Terry stops*, inspectors determined sufficient quality of documentation in the narrative to establish reasonable suspicion in 93.5% of cases.

Note: This should not be read to conclude that in the remaining 6.5% of cases officers lacked reasonable suspicion, but rather, based on the limited narrative reviewed, the inspectors concluded that the documentation was insufficient to make that determination. Future review will consider the totality of the

¹ In *Terry v. Ohio*, 392 U.S. 1 (1968), the United States Supreme Court held that such brief detentions are authorized under the Fourth Amendment when, under the totality of circumstances, an officer has reasonable suspicion to believe that criminal activity is afoot.

documentation supervisors have available to them to fulfill their review and approval responsibilities, including the entirety of the General Offense Report.

- Two hundred and twenty-eight (228, or 21%) of these 1,084 stops also involved a documented weapons frisk. Inspectors determined, based on the four corners of the narrative reports provided, that 38 (16.7%) lacked separate articulated reasonable suspicion for the frisk.
- Statistical analysis (a Pearson's Chi-square test) was applied to test the relationship between the outcome of the audit and the perceived race and gender of the subject. While some differences were observed, the relationship was not significant. Observed differences between groups can be said to be coincidental.

In addition to these quantitative findings, this Audit Report provides updates as to the Department's continued training on stops and detentions.

One preliminary point should be emphasized. Whether or not a Constitutional seizure has occurred, and whether the officer has reasonable suspicion for the stop, is an inherently complex determination, based on the totality of the circumstances available to the officer at the time of the stop, and dependent on both the content of the information available and the quality of that information. No bright-line rule can be applied. Whether the facts and circumstances give rise to reasonable suspicion in a given case is reviewed under a "reasonable officer" standard, guided by sets of principles and exceptions that continue to be driven by case law. Because the "reasonable officer" standard is one on which reasonable minds can, and often do, differ, it would be unusual to find, consistently, complete unanimity of opinion among reviewers. This audit is intended to root out whether, *systemically*, officers are meeting policy expectations with respect to both the quality and the documentation of *Terry* stops and detentions; reviewer determinations, which are restricted in this instance to the "four corners" of a report template, rather than the totality of the case file that would be before a court for constitutional determination (including all reports, video footage, etc.) are *not* intended to be the Department's determination as to whether each stop or frisk, individually, would withstand a Constitutional challenge. As in any case in which a stop (or evidence that flows therefrom) is challenged on Constitutional grounds, SPD would defer that determination to the courts.

Consent Decree Requirements

The Consent Decree contains five paragraphs setting forth specific obligations of SPD relating to Stops and Detentions, as follows:

140. SPD will revise, as necessary, the Social Contact, *Terry Stop*, & Arrest Policy, Section 6.220, to ensure that the definitions of Social Contact and *Terry* Stops explicitly conform to constitutional requirements. Specifically, the policy will (1) define Social Contacts and non-custodial interviews as encounters that are voluntary and consensual; and (2) prohibit investigatory stops where the officer

lacks reasonable suspicion that a person has been, is, or is about to be engaged in the commission of a crime.

Note: SPD met requirement during Phase I of the Consent Decree. Original revisions to Manual Section 6.220, were approved by the on August 11, 2015 (dkt. 211). Subsequent revisions to this policy were approved on November 19, 2018 (dkt. 501). This Consent Decree requirement remains complete.

141. SPD will continue to require that officers be able to specifically and clearly articulate reasonable suspicion when they conduct investigatory stops or detentions, or conduct field interviews for *Terry* stops.

142. SPD will provide all SPD patrol officers with in-service training on an annual basis, based on developments in applicable law and SPD policy, sufficient to address the following topics:

- (a) the importance of police-community contacts for effective policing and community relations and trust;
- (b) Fourth Amendment and related law; SPD policies, and requirements in this Agreement regarding investigatory stops and detentions;
- (c) First Amendment and related law in the context of the rights of individuals to verbally dispute officer conduct;
- (d) legal distinction between social contacts, non-custodial interviews, and investigatory *Terry* stops;
- (e) distinction between various police contacts according to the scope and level of police intrusion; and
- (f) the facts, circumstances, and best practices that should be considered in initiating, conducting, termination, and expanding an investigatory stop or detention, including when an individual is free to leave, and when an officer might identify him or herself during a contact.

143. Additionally, SPD will provide all officers with regular roll call trainings regarding social contacts, non-custodial interviews, and investigatory stops and detentions.

Note: Training plans that cover these topics, reviewed by the DOJ and the Monitoring Team, were developed during Phase I of the Consent Decree and approved by the Court. The Sustainment Plan does not call for any particular training updates, although the Department routinely reviews and updates training each year. The training presented on these topics follows training previously reviewed, and approved.

144. Consistent with SPD policies and procedures, absent exceptional circumstances, by the end of each shift, a supervisor will continue to obtain and

review his/her supervisees' incident reports and any other reports that document the basis for investigatory stops and detentions to determine if they were supported by reasonable suspicion and consistent with SPD policy, federal, or state law; and determine if the officer requires review of agency policy, strategy, tactics, or training.

Audit Findings

Objective 1 – Articulation of Reasonable Suspicion (Paragraphs 141 and 144)

Assess whether SPD officers are specifically and clearly documenting reasonable suspicion when they conduct investigatory stops or detentions, or conduct field interview for Terry stops.

A. Methodology

The source data for this audit comprised a set of 1,399 randomly-selected templates² (reports) of investigatory stops occurring between January 1 and June 30, 2018. These stops represented approximately one-third of the 4,341 total *Terry* stops reported during this period; the size of the sample was selected to quantify, through an exploratory selection of a probability sample,³ an accurate frequency with which stops lacking documented reasonable suspicion for either a stop or a search ("frisk") occur.⁴

This audit was conducted in two phases. The first phase was conducted by eight expert raters (one sergeant and seven detectives) assigned to APRS. The average experience, in years, of the inspector cohort was a normal 19.2 years ($SD = 6.86$, skewness = .54, kurtosis = .59); the minimum years of experience was 11.4 years, and the maximum years of experience was 31.7 years. In Phase II of the inspection, 13 of the Terry templates that were identified in Phase II as lacking articulated reasonable suspicion were randomly selected and randomly distributed among an

² In 2015, the Seattle Police Department introduced a new computerized template that allows it to capture, as part of its Records Management System, fielded and narrative data around *Terry* stops, including the purpose of the stop and metrics that capture the officer's status (on duty or off duty, years of service), the date, time, and location of the stop, and the duration of the stop.

³ "Probability samples are selected in such a way that every member of the population actually has a possibility of being included in the sample." See Henry, G. T. (1990). *Practical sampling* (Vol. 21).

⁴ "Exploratory research is generally conducted to provide an orientation or familiarization with the topic under study. It serves to enlighten the researcher about salient issues, helps focus future research on important variables, and generates hypotheses to be tested. Descriptive research is the core of many survey research projects where estimates of population characteristics, attributes, or attitudes are study objectives... Exploratory research is often a preliminary activity leading to a more rigorous descriptive or analytical study... Broad coverage is more important in many exploratory research projects than reducing error." Henry (1990), p. 48.

additional 17 reports determined by Phase I inspectors to adequately document reasonable suspicion. These 30 cases were extracted in PDF from the Department's Records Management System and provided to a cohort of four attorneys familiar with police reports to conduct an additional confidence check on the original exploratory inspection.

In each phase, inspectors were provided a set of written instructions and all reviewed Department policy prior to beginning the inspection. Each was assigned a block of twenty incident numbers at a time. They were instructed to locate the Terry template using a combination of the “parent” report (General Offense, Street Check, Follow Up), the name of the subject (if known), and the date of the incident. After reading each template, the inspectors were asked to conduct a “four corners” assessment of the quality of the *Terry* template and respond to a series of questions administered using a web-based survey tool that mirrored the instrument used by the Monitoring Team in conducting its Tenth Systemic Assessment on Search and Seizure.

A comparative analysis was conducted to confirm the same appropriately represented the population, and a fidelity analysis was conducted with the expert raters in APRS to assess whether a consistent result was likely. A similar procedure was conducted with the attorney cohort, as well as a principle components approach to interrater reliability or agreement.

B. Sample Description

The sample closely mirrored the distribution of the data population across Bureau and Precinct/Section. Operations Bureau personnel and those assigned to the Professional Standards Bureau (e.g., student and field training officers) reported the vast majority (98.43%) of all Terry stops. The greatest proportion of stops was relatively evenly split between the West (23.82%) and North (23.24%) Precincts, under the Operations Bureau (87.65%). The average difference between the population and the sample was 0.0%. See Figure 1.

Figure 1: Comparison of Sample to Total by Assignment

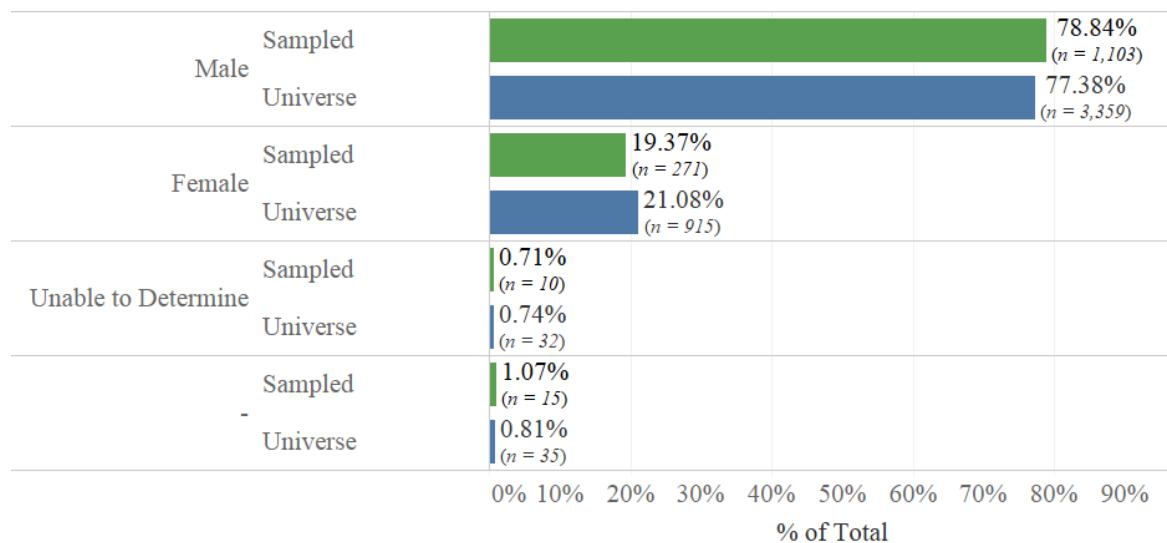
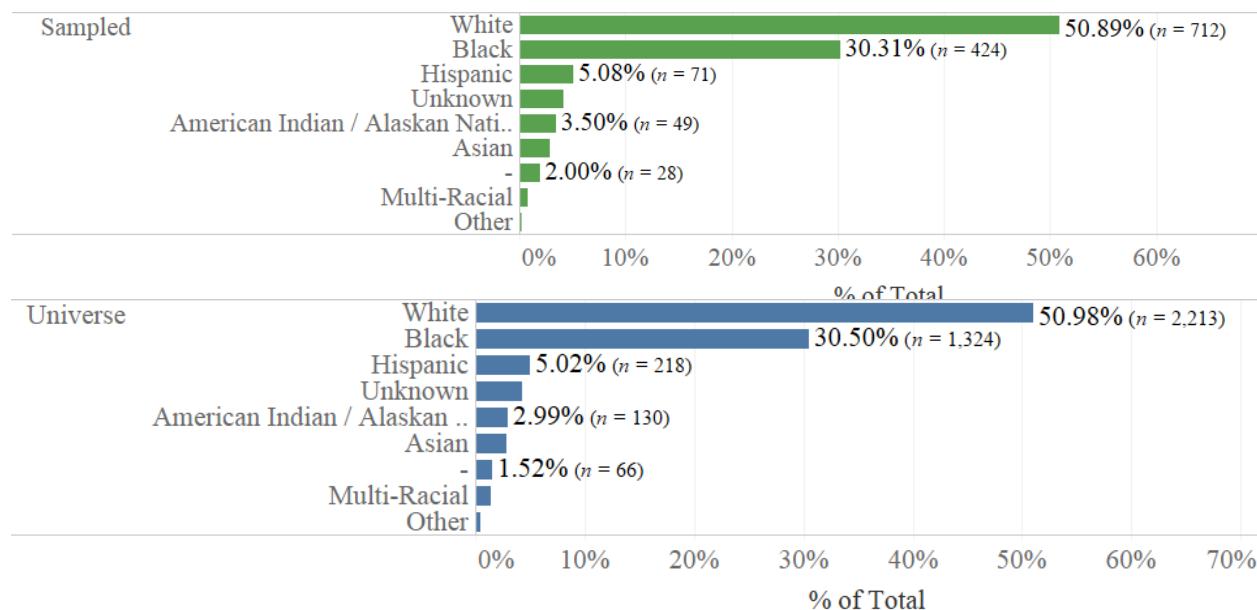
| | | Sampled | | Total | |
|---|-------------------------|--------------|--------|------------|--------------|
| | | % of Total | Count | % of Total | Count |
| OPERATIONS BUREAU | WEST PCT | 22.37% | 313 | 23.82% | 1,034 |
| | NORTH PCT | 25.09% | 351 | 23.24% | 1,009 |
| | EAST PCT | 17.23% | 241 | 16.75% | 727 |
| | SOUTH PCT | 14.08% | 197 | 13.91% | 604 |
| | SOUTHWEST PCT | 9.94% | 139 | 9.88% | 429 |
| | Null | | | 0.05% | 2 |
| | | Total | 88.71% | 1,241 | 87.65% 3,805 |
| PROFESSIONAL STANDARDS BUREAU | TRAINING AND EDUCATI.. | 9.22% | 129 | 10.78% | 468 |
| | Total | 9.22% | 129 | 10.78% | 468 |
| Null | Null | 1.43% | 20 | 1.22% | 53 |
| | | Total | 1.43% | 20 | 1.22% 53 |
| HOMELAND SECURITY AND SPECIAL OPERATION.. | TRAFFIC SECTION | 0.14% | 2 | 0.09% | 4 |
| | METROPOLITAN SECTION | 0.21% | 3 | 0.07% | 3 |
| | Total | 0.36% | 5 | 0.16% | 7 |
| INVESTIGATIONS BUREAU | VIOLENT CRIMES SECTIO.. | 0.07% | 1 | 0.09% | 4 |
| | COORDINATED CRIMINA.. | 0.14% | 2 | 0.05% | 2 |
| | Total | 0.21% | 3 | 0.14% | 6 |
| COLLABORATIVE POLICING BUREAU | Null | 0.07% | 1 | 0.05% | 2 |
| | Total | 0.07% | 1 | 0.05% | 2 |
| | Total | 100.00% | 1,399 | 100.00% | 4,341 |

When observed across watch assignment, the distribution remains consistent, with an average difference between the sample and the total population of 0.02%. See Figure 2.

Figure 2: Comparison of Sample to Total by Watch

| | | Sampled | | Total | |
|--------------------------------|--------------|----------------|--------------|----------------|--------------|
| | | % of Total | Count | % of Total | Count |
| WEST PCT | 1st Watch | 4.43% | 62 | 4.65% | 202 |
| | 2nd Watch | 8.79% | 123 | 9.42% | 409 |
| | 3rd Watch | 8.43% | 118 | 9.21% | 400 |
| | Other | 0.71% | 10 | 0.53% | 23 |
| | Total | 22.37% | 313 | 23.82% | 1,034 |
| NORTH PCT | 1st Watch | 4.65% | 65 | 4.49% | 195 |
| | 2nd Watch | 12.87% | 180 | 11.70% | 508 |
| | 3rd Watch | 6.36% | 89 | 6.24% | 271 |
| | Other | 1.22% | 17 | 0.81% | 35 |
| | Total | 25.09% | 351 | 23.24% | 1,009 |
| EAST PCT | 1st Watch | 4.15% | 58 | 3.99% | 173 |
| | 2nd Watch | 5.79% | 81 | 5.71% | 248 |
| | 3rd Watch | 7.29% | 102 | 7.03% | 305 |
| | Other | | | 0.02% | 1 |
| | Total | 17.23% | 241 | 16.75% | 727 |
| SOUTH PCT | 1st Watch | 3.36% | 47 | 4.12% | 179 |
| | 2nd Watch | 4.93% | 69 | 3.99% | 173 |
| | 3rd Watch | 4.86% | 68 | 4.81% | 209 |
| | Other | 0.93% | 13 | 0.99% | 43 |
| | Total | 14.08% | 197 | 13.91% | 604 |
| TRAINING AND EDUCATION SECTION | Other | 9.22% | 129 | 10.78% | 468 |
| | Total | 9.22% | 129 | 10.78% | 468 |
| SOUTHWEST PCT | 1st Watch | 2.79% | 39 | 2.83% | 123 |
| | 2nd Watch | 5.29% | 74 | 5.21% | 226 |
| | 3rd Watch | 1.29% | 18 | 1.52% | 66 |
| | Other | 0.57% | 8 | 0.32% | 14 |
| | Total | 9.94% | 139 | 9.88% | 429 |
| ALL OTHERS | Other | 2.07% | 29 | 1.61% | 70 |
| | Total | 2.07% | 29 | 1.61% | 70 |
| | Total | 100.00% | 1,399 | 100.00% | 4,341 |

When analyzed in terms of the distribution subject demographics, the sample likewise closely matched the total, with an average deviation of 0.0% between the sample and the total with respect to both subject race and age. See Figure 3 (gender), Figure 4 (race), and Figure 5 (age).

Figure 3: Comparison of Sample to Total by Subject Gender**Figure 4: Comparison of Sample to Total by Subject Race**

Involved officer demographics were similarly matched, with an average deviation of less than 1% between the sample and the total with respect to officer gender (Figure 6), of 0.0% with respect to officer race (Figure 7) and officer age (Figure 8), and 0.04% with respect to officer experience (Figure 9).

Figure 6: Comparison of Sample to Total by Officer Gender

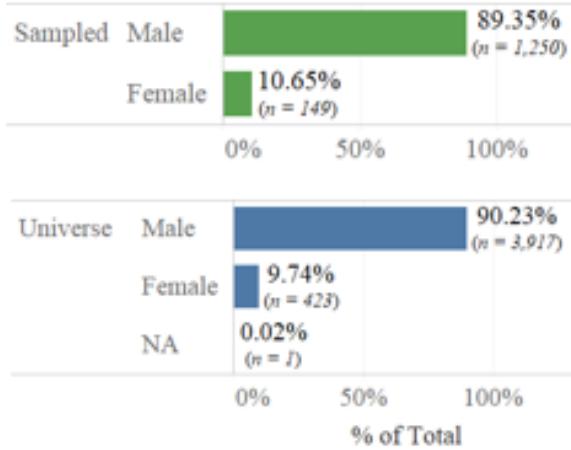


Figure 7: Comparison of Sample to Total by Officer Race

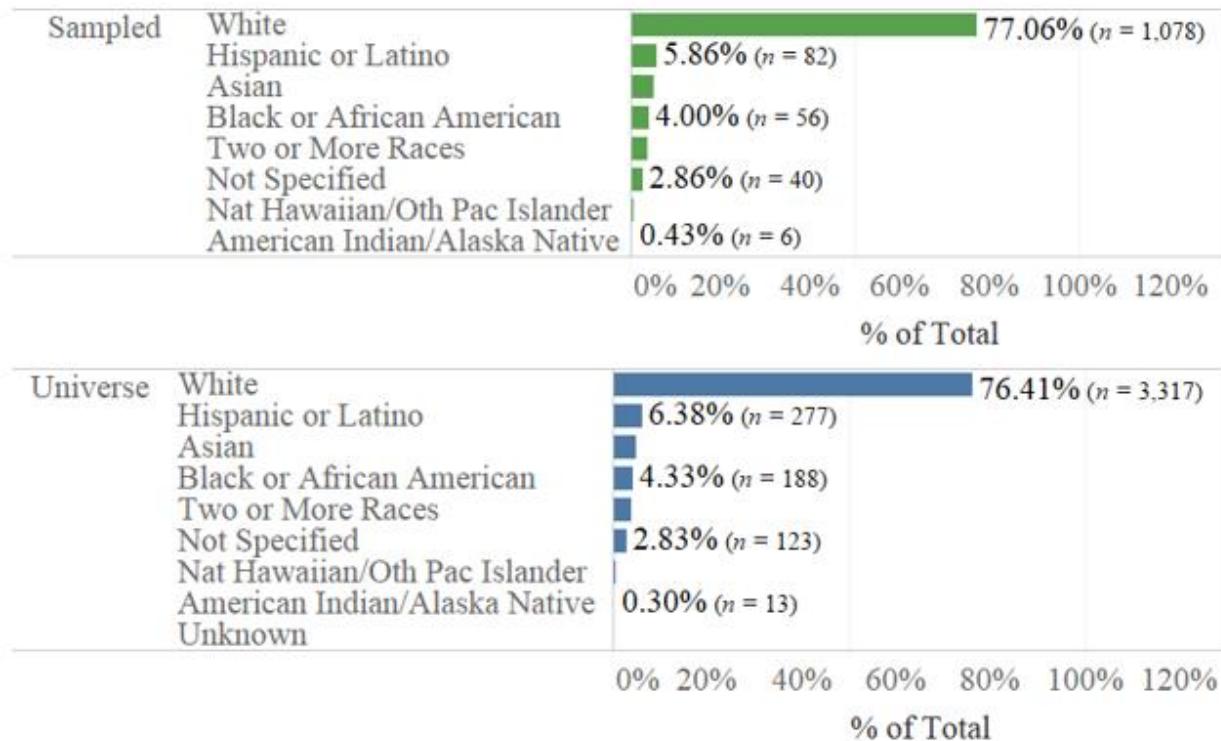
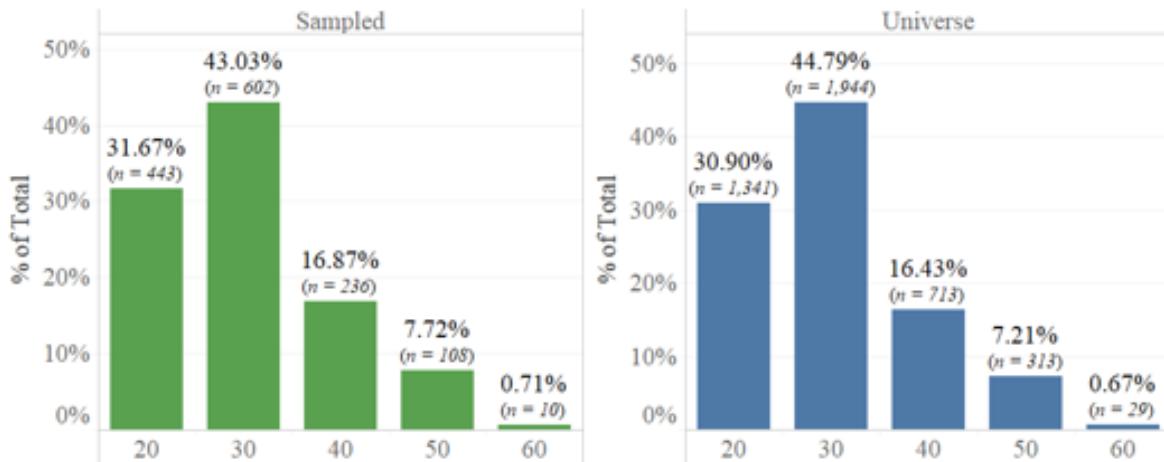
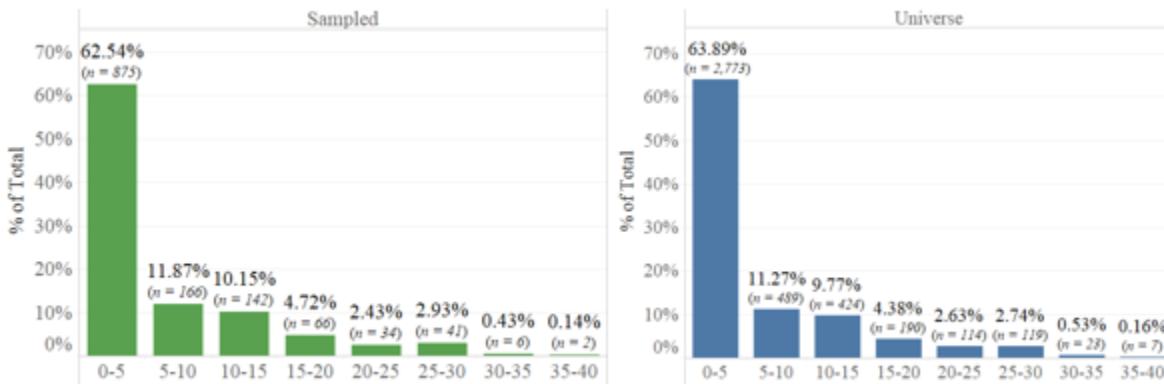


Figure 8: Comparison of Sample to Total by Officer Age**Figure 9: Comparison of Sample to Total by Officer Experience**

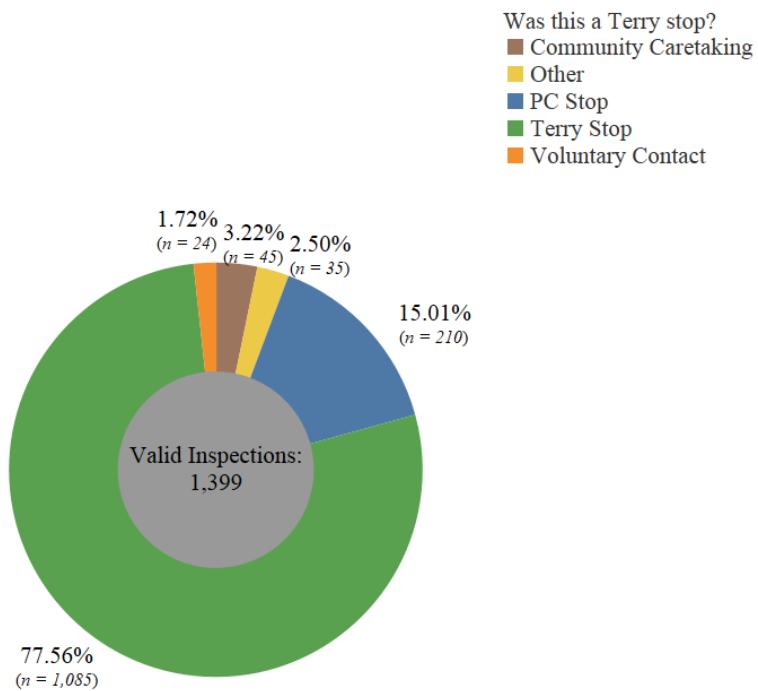
C. Audit Results - Stops

Of the 1,399 inspections logged, inspectors confirmed 1,084 (77.56%) as *Terry* stops, suggesting potential overreporting of *Terry* seizures. In 15.01% of instances reported as *Terry* stops, the inspectors determined officers had probable cause (PC) for the seizure. In additional 3.22% of cases, inspectors identified the stop as a community caretaking, involving subjects in behavioral crisis or other vulnerable state. The remaining stops reported by officers under *Terry* were determined to be voluntary contacts (1.72%), where the subject was free to leave, or classified as “Other” (2.5%). See Figure 10.

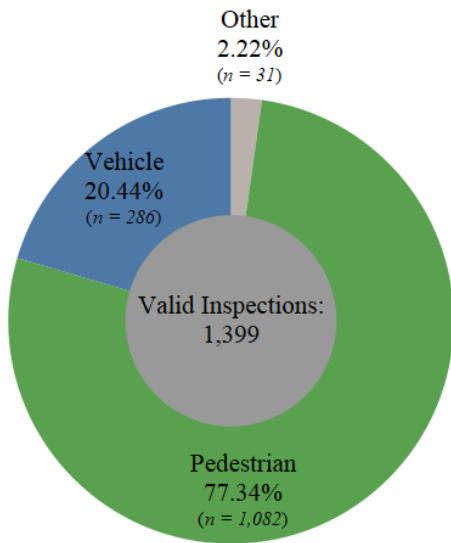
To address the issue of overreporting, effective January 1, 2019, SPD has revised its Voluntary Contacts, Terry Stops, and Detentions policy (with DOJ, Monitor, and Court approval) to clarify that it does not apply to stops based on probable cause or to community caretaking functions. See Seattle Police Manual Title 6.220.

Such overreporting is not an effective use of officers' time. Starting in 2014, SPD adopted the policy requiring Terry Templates in order to ensure that the basis for reasonable suspicion, among other information, is documented each time an officer makes a Terry Stop. SPD policy already required the equivalent information to be documented for stops based on probable cause. Thus, when an officer makes a PC stop, filling out a Terry Template is both duplicative (because the basis for probable cause must separately be input into the Street Check or GO report) and confusing (because the Template presupposes that the officer had reasonable suspicion, when in fact the officer had PC).

Figure 10: Breakdown of Stops by Type



Approximately three-quarters (77.34%) of stops reviewed involved a pedestrian; another fifth (20.45%) involved persons in vehicles. In 2.22% of cases, reviewers were unable to make this determination. See Figure 11.

Figure 11: Breakdown of Stops, Pedestrian/Vehicle

Of the 1,085 templates verified as investigative *Terry* stops, inspections were completed on 1,084 (one review was entered incompletely and omitted from the remainder of the analysis). Of these 1,084, templates, 93.45% ($n=1,013$) were deemed to include sufficient documentation for inspectors to determine reasonable suspicion for the stop. Inspectors were unable to determine, within the four corners of the template, reasonable suspicion for the stop in the remaining 6.55% ($n=71$) cases. See Figure 12.

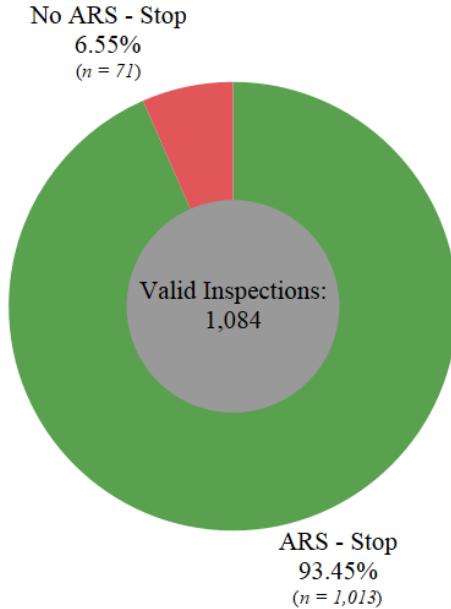
Figure 12: Articulated Reasonable Suspicion - Stops

Figure 13 shows a breakdown of the 71 *Terry* templates deemed to lack information sufficient to determine reasonable suspicion for the stop by squad. As shown, Nora Sector 2nd Watch (North Precinct) accounted for eight of these stops; Frank/William Relief 1st Watch (Southwest Precinct) accounted for another 5, followed by David Sector 2nd Watch (West Precinct) with four. Six additional squads each accounted for three of these stops; eight squads each accounted for two; and the remaining squads accounted for one, each. As in any descriptive analysis dealing with such small numbers relative to the whole of the sample, extreme caution should be used in interpreting these numbers as anything other than descriptive.

Figure 13: Distribution of Deficient Articulation for Stops by Squad

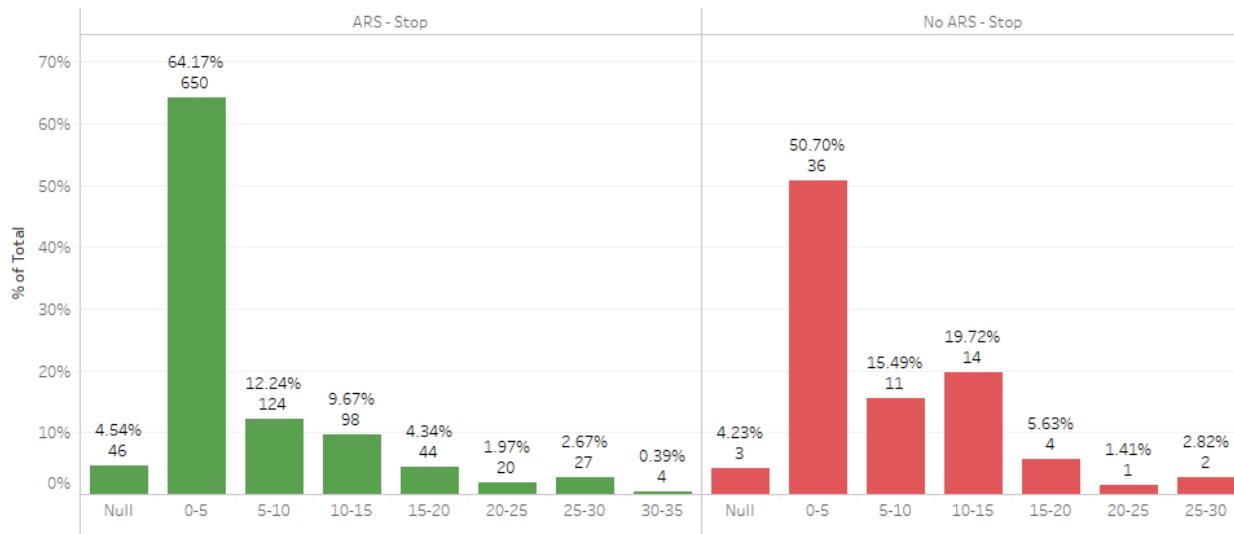
| | | | | | | |
|---|--|--|--|--|--|--|
| NORTH PCT 2ND W - NORRA No ARS - Stop 11.43% 8 | EAST PCT 1ST W - GEORGE (CHARLIE) No ARS - Stop 4.23% 3 | EAST PCT 2ND W - CHARLIE RELIEF No ARS - Stop 2.86% 2 | EAST PCT 3RD W - GEORGE No ARS - Stop 2.86% 2 | NORTH PCT 1ST W - BOY (JO-IN) No ARS - Stop 2.86% 2 | NORTH PCT 1ST W - L/RELIEF No ARS - Stop 2.86% 2 | NORTH PCT 3RD W - W - NORRA No ARS - Stop 2.86% 2 |
| NORTH PCT 2ND WATCH - NORTH BEATS No ARS - Stop 4.23% 3 | SOUTHWEST PCT 1ST W - FRANK No ARS - Stop 2.86% 2 | SOUTHWEST PCT 1ST W - 3RD W - E/G RELIEF No ARS - Stop 1.43% 1 | SOUTH PCT 2ND W - 2ND W - LINCOLN RELIEF No ARS - Stop 1.43% 1 | NORTH PCT 2ND W - 2ND W - LINCOLN RELIEF No ARS - Stop 1.43% 1 | NORTH PCT 3RD W - 3RD W / J/U RELIEF No ARS - Stop 1.43% 1 | NORTH PCT 3RD W - W - NORRA RELIEF No ARS - Stop 1.43% 1 |
| SOUTHWEST PCT - 1ST WATCH - F/W RELIEF No ARS - Stop 7.14% 5 | NORTH PCT 3RD W - UNION No ARS - Stop 4.23% 3 | SOUTHWEST PCT 2ND W - SOUTHWEST BEATS No ARS - Stop 2.86% 2 | SOUTH PCT 3RD W - SAM No ARS - Stop 1.43% 1 | SOUTH PCT 2ND W - 3RD W - OCEAN No ARS - Stop 1.43% 1 | SOUTH PCT 2ND W - 3RD W - OCEAN RELIEF No ARS - Stop 1.43% 1 | SOUTH PCT 2ND W - 3RD W - WILLIAM No ARS - Stop 1.43% 1 |
| WEST PCT 2ND W - DAVID No ARS - Stop 5.71% 4 | SOUTH PCT 1ST W - RJS RELIEF No ARS - Stop 4.23% 3 | TRAINING - FIELD TRAINING SQUAD No ARS - Stop 2.86% 2 | SOUTH PCT 2ND W - RJS RELIEF No ARS - Stop 1.43% 1 | SOUTH PCT 1ST W - SAM No ARS - Stop 1.43% 1 | SOUTH PCT 2ND W - 2ND W - KING No ARS - Stop 1.43% 1 | SOUTH PCT 2ND W - 2ND W - MARY No ARS - Stop 1.43% 1 |
| EAST PCT 1ST W - EDWARD (CHARLIE) No ARS - Stop 4.23% 3 | SOUTH PCT 2ND W - OCEAN RELIEF No ARS - Stop 4.23% 3 | EAST PCT 2ND W - E/G RELIEF No ARS - Stop 1.43% 1 | SOUTH PCT 2ND W - SAM No ARS - Stop 1.43% 1 | SOUTH PCT 2ND W - D/M RELIEF No ARS - Stop 1.43% 1 | SOUTH PCT 2ND W - NIGHT No ARS - Stop 1.43% 1 | SOUTH PCT 2ND W - ACT No ARS - Stop 1.43% 1 |

Visual comparison of officer demographics (gender, race, and age) identified no obvious pattern, with one exception as to officer “Years of Experience.” Within the subset of cases in which inspectors were unable to identify documented reasonable suspicion, officers with five or fewer years of experience were *underrepresented* and officers with 10 to 15 years of experience were slightly *overrepresented*.⁵ However, while there are

⁵ For Figures 14-15 and 17-18, the terms “underrepresented” and “overrepresented” draw a between-group comparison between the templates that do have ARS (on the left in green) and the templates that do not have ARS (on the right in red).

observable differences between groups (see Figure 14), a Pearson's Chi-square procedure determined that no significant relationships between groups ($df = 7, p = .212$).

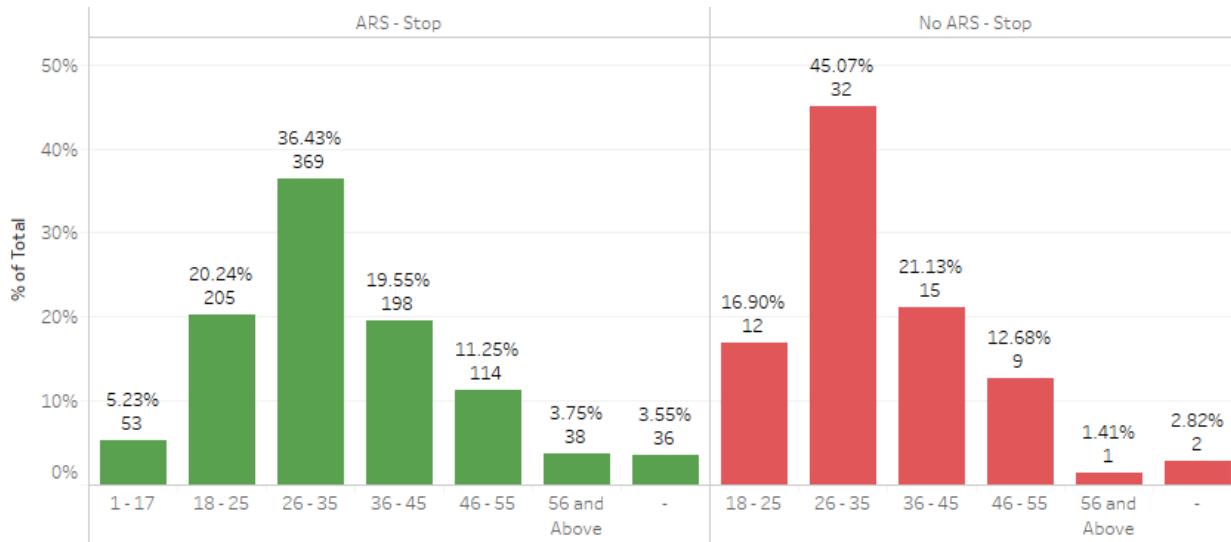
Figure 14: Distribution of Case Determination (Articulated Reasonable Suspicion (ARS)/No ARS) for Stops by Officer Years of Experience



A Pearson's Chi-square procedure for the analysis of categorical variables (race, gender) was similarly applied to quantify the relationship between the outcome of the inspection (whether articulated reasonable suspicion was present) and the perceived race and gender of the subject. No significant differences were observed between groups for subjects perceived to be female or male and the Chi-Square test was insignificant ($df = 3, p = .855$) black or white. Some difference was observed where the subject was perceived to be Hispanic; however, the relationship was not significant ($df = 8, p = .372$). When collapsed into a dichotomous variable, white / non-white, no significant differences between groups were observed and Chi-Square test was not significant ($df = 1, p = .682$).

When viewed as a function of subject age, subjects perceived to be between twenty-six and thirty-five years of age are overrepresented by approximately 10% in the identified cases lacking ARS, no significant differences were observed between groups and Chi-square testing failed to find significance for any of the observations ($df = 6, p = .345$). See Figure 15.

Figure 15: Distribution of Case Determination (Articulated Reasonable Suspicion (ARS)/No ARS) for Stops by Subject Age



Again, this inspection was based on a review of the *Terry* template alone; additional documentation that would be available to supervisors in fulfilling their obligation to review the stop (and attorneys and the court, were the stop to be legally challenged) did not factor into this review.

Table 1 displays the inspectors' descriptions of the 71 (6.55%) templates identified as lacking articulated reasonable suspicion. For more than half, inspectors identified the basis for their determination as "incomplete documentation/narrative (e.g., insufficient facts articulated or incomplete data provided such that stop justification could not be readily determined one way or another)." In these templates the narrative contained no facts or facts described in terms that were too vague to be informative (as opposed to templates in which the narrative contained clearly described facts that are legally insufficient).

In another 26% of the 71 templates lacking ARS, reviewers concluded, based on the narrative, that the "facts do not establish criminal activity that had been, was, or would soon be occurring." In another 20.55%, a "referential narrative" was identified, indicating the officer wrote "See GO" or "See Body-Worn Video" in the body of the *Terry* template. In 16.44% of the 71 stops identified as lacking ARS, reviewers cited "location alone is exclusive or disproportionate justification," as the basis of their determination; all other deficiencies comprised less than 10% of the identified sample. See Table 1.

Table 1: Distribution of Findings Determining Lack of Articulated Reasonable Suspicion (*n* = 71) for Stops

| | | |
|---|--------|----|
| Incomplete documentation/narrative (e.g., insufficient facts articulated or incomplete data provided such that stop justification could not be readily determined one way or another) | 61.64% | 45 |
| Facts do not establish criminal activity that had been, was, or would soon be occurring | 26.03% | 19 |
| Referential Narrative (e.g. "See GO," "See Narrative," "See BodyWorn Video") | 20.55% | 15 |
| Location Alone | 16.44% | 12 |
| Additional / Other (please specify) | 9.59% | 7 |
| Reliance on uncorroborated, anonymous tip | 8.22% | 6 |
| Evasion / Nervousness Alone | 5.48% | 4 |
| Conclusory statements rather than facts are exclusive or disproportionate justification | 2.74% | 2 |
| Innate/immutable subject characteristic(s) (e.g., race, gender) is exclusive or disproportionate justification | 1.37% | 1 |

SPD took a random subset of 23 cases out of the 71 identified as lacking ARS and performed, a deeper examination. This “third-layer review” was conducted by a group of four attorneys who reviewed the associated general offense report or street-check⁶ for the 23 cases. After reviewing the additional narrative provided in the GO or street-check by the officer who made the stop, the attorneys determined that ARS was present in approximately half of these cases.⁷

In cases where inspectors found articulated reasonable suspicion, the vast majority included specific information from dispatch, communication, eyewitnesses, etc. and described the circumstances of the encounter (time of day, nature of neighborhood, proximity to crime scene). See Table 2.

Table 2: Information Supporting Articulated Reasonable Suspicion (*n* = 1,013) for Stops

| | | |
|--|-----------|----------|
| Specific information from dispatch, communications, eyewitness, concerned community member | 76.02% | 783 |
| Circumstances of encounter (e.g., time of day, nature of neighborhood, location on street, proximity to crime scene) | 67.67% | 697 |
| Subjects physical behavior (e.g., manner of movement, body language) | 38.45% | 396 |
| Subjects words (e.g., statements, answers to questions, representations) | 10.19% | 105 |
| Additional / Other (please specify) | Responses | 8.54% 88 |
| Officers prior knowledge about the subject (e.g., prior interactions, knowledge of subjects criminal history or criminal modus operandi) | | 6.89% 71 |

⁶ If a Terry stop leads to an arrest, or meets certain other criteria, the officer must fill out a general offense (GO) report. All other Terry stops must be documented in Street Check.

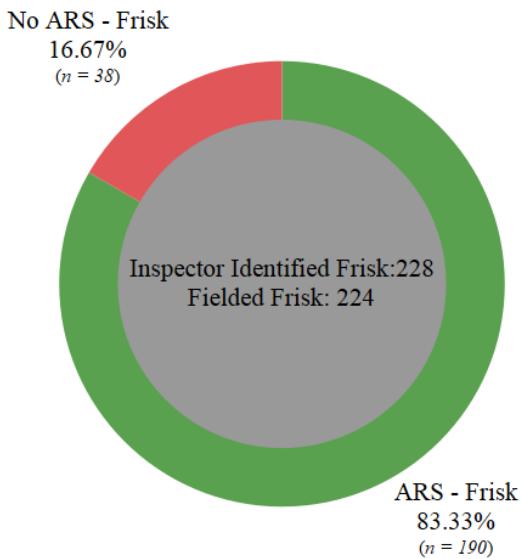
⁷ It is not meaningful to provide exact quantitative data about the attorney reviewers’ conclusions, because all attorneys did not reach the same conclusion for all cases. In addition, their review was not conducted blind (i.e., they all knew that APRS inspectors had already flagged each template they were reviewing.) Their conclusions were gathered in a focus-group style qualitative debriefing. All agreed that more than half of the templates they reviewed had ARS once you looked at the GO Report and the Street Check.

To summarize, APRS reviewed 1,084 separate *Terry* templates that were completed by officers after conducting a stop of a community member. For 93.5 percent of the stops, based upon template narrative alone, auditors determined that the officer documented facts that established reasonable suspicion for the stop. For a random sample of the remaining 7 percent of stops, a review of the additional materials associated with the *Terry* template indicated that reasonable suspicion was present in approximately half, albeit documented in the wrong place. This result demonstrates continued systemic compliance with paragraph 141 of the consent decree.

D. Audit Results - Frisks

In 228 (21%) of the stops examined, inspectors identified a documented search (or “frisk”).⁸ Of these templates that noted a frisk, 83.33% ($n=190$) were deemed to include sufficient documentation for inspectors to determine reasonable suspicion for the frisk. Inspectors were unable to determine, within the four corners of the template, reasonable suspicion for the frisk in the remaining 16.67% ($n=38$) of cases. See Figure 16.

Figure 16: Articulated Reasonable Suspicion – Frisks



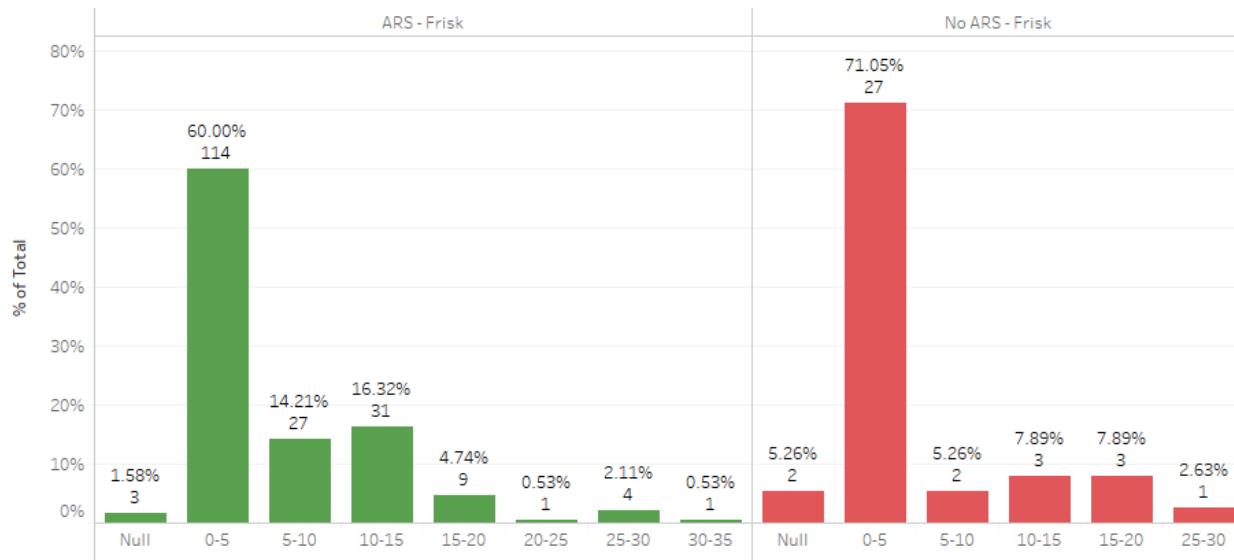
Within the subset of 38 cases in which inspectors were unable to discern from the documentation reasonable suspicion for the frisk, four originated in the East Precinct Third Watch Edward/George Relief squad; three originated in South Precinct Second Watch Robert/Sam sector relief reported three (3) stops. Three (3) squads reported two (5%) of their frisks lacking ARS. Twenty squads reported just one (2.5%) of their frisks lacking ARS. Again, given such small numbers, extreme caution should be used in interpreting these descriptive results.

⁸ On a cross-review, fielded data from the DAP identified 224 frisks for the same sample, indicating that in four cases, officers failed to select the “frisk” box in the *Terry* template but reported the frisk in the narrative.

A Pearson's Chi-square procedure for the analysis of categorical variables was applied to the subset of cases where no ARS was found. The expected frequency assumption could not be met for any of the perceived gender categories; no significant difference was observed, and Chi-square testing was not significant ($df = 3, p = .933$). Similarly, perceived race failed to meet expected frequency assumptions; no significant differences between groups was observed, and Chi-square testing was not significant ($df = 8, p = .498$). When collapsed into a dichotomous variable (white/non-white), frequency assumptions were met; no significant differences between groups were observed, and Chi-square test was not significant ($df = 1, p = .829$).

A count of frisks in each category (ARS, No ARS) relative to officer years of experience again appears visually to show officers with zero to five years of experience as overrepresented (by 11.05%) in frisks where inspectors did not find ARS (see Figure 17); however, expected frequency assumptions were not satisfied, no significant differences were observed between groups, and the Chi-square testing was not significant ($df = 7, p = .641$).

Figure 17: Distribution of Case Determination (Articulated Reasonable Suspicion (ARS)/No ARS) for Frisk by Officer Years of Experience



A similar visual pattern was observed in subject age (see Figure 18), with subjects perceived to be between 26 and 35 overrepresented in the sample lacking ARS for the frisk; however, while there are observable differences, Chi-square testing failed to quantify a significant relationship ($df = 6, p = .227$).

Figure 18: Distribution of Case Determination (Articulated Reasonable Suspicion (ARS)/No ARS) for Frisk by Subject Age

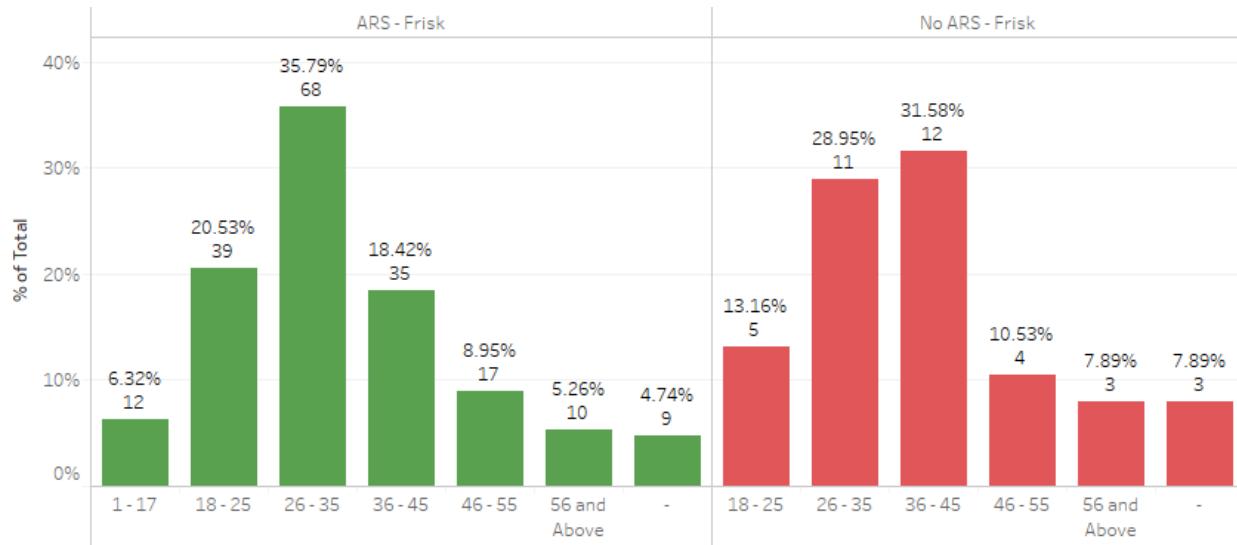


Table 3 displays the inspectors' descriptions of the 38 frisks identified as lacking articulated reasonable suspicion. For 26 (66.67%) of the 38 frisks, inspectors cited "Factors articulated fail to establish sufficient grounds" as a reason for their finding. A missing frisk narrative or "other" were both cited in 10 (25.64%) of cases; one (1) frisk cited a referential narrative as reason for identification as lacking ARS. See Table 3.

Table 3: Reasons Cited for Lacking ARS for Frisk (n = 38)

| | | |
|--|-----------|--------|
| Factors articulated fail to establish sufficient grounds | 66.67% | 26 |
| Missing frisk narrative/reason for frisk description | 25.64% | 10 |
| Additional / Other (please specify) | Responses | 25.64% |
| Referential Narrative (e.g. "See GO," "See Narrative," "See BodyWorn Video") | | 2.56% |

As with stops, SPD took a randomly selected subset of 7 cases out of the 38 frisks identified as lacking ARS and performed a third-layer (attorney) review of the associated GO reports and Street Checks. The attorneys concluded that some⁹ of the frisks lacking documentation of ARS were lawful searches conducted incident to arrest (for which reasonable suspicion of a weapon is not required) and that some resulted from incomplete documentation.

Again, while this audit identifies room for individualized training and improvement, these results demonstrate continued systemic compliance with Paragraph 141 of the Consent Decree.

⁹ For the reasons stated in note 7, *supra*, exact numbers are not available.

E. Audit Results – Follow-Up

SPD considered the squads which had the most Terry templates that lacked documentation. However, the numbers for these squads were for the most part too low to provide meaningful guidance, considering that the study period was six months. For stops, in the three highest frequency squads eight, six, and four of the Terry templates during the study period lacked documentation. For frisks, one squad had four such templates and another had three. SPD will meet with precinct captains for these squads over the next weeks to review documentation requirements.

SPD also searched for any systemic issues through the multiple layers of review of randomly selected templates that did not document articulated reasonable suspicion for a stop or frisk, but none were identified. The attorney reviewers who analyzed the associated general offense report or street-check entry for a random sample of the templates lacking ARS concluded that some (approximately half) of these templates reflected a lack of documentation rather than an issue with the stop or frisk. Moreover, for many of the Terry templates, reviewers determined that the officer had probable cause from the start, which is a higher level of justification than required; this suggests that some officers are completing Terry templates in an abundance of caution even when policy does not require it.

During 2019, SPD's Education and Training Section will be offering two relevant training modules, "Legal Updates" and "Search and Seizure."

F. Supervision

By policy, supervisors are required to review their officers GOs and Street Checks that document Terry stops made during the shift to determine if they are supported by reasonable suspicion and are consistent with SPD policy and federal and state law. See Manual Section 6.220(11). The system by which *Terry* stops are entered, and reports processed, is such that *Terry* templates cannot enter the reporting database until the entirety of the "parent report" (GO, Street Check, or Follow Up) to which they are attached is approved by a supervisor. In other words, this requirement is "fixed" by way of the technical configuration.

For 71 (6.55%) of the stops and 38 (16.67%) of the frisks, the auditors identified a lack of articulated reasonable suspicion when reviewing the Terry template by itself. For these templates, there was no evidence that the officers' supervisors identified the missing documentation (although if the supervisor did make a referral to OPA or counsel the officer directly that would not be reflected in the data examined). As noted earlier, this review is based (as was the Monitor's initial assessment) on a "four corners" review of the *Terry* template alone, whereas supervisors have available to them, at the time they are reviewing the stop, additional material, including the parent report, its narrative, and video/audio footage of the incident. Accordingly, it is likely that the actual number of cases that, upon full review, would be found

lacking in reasonable suspicion would be smaller than the 71 (6.55%) reported here—especially insofar as a subset of those cases found lacking in reasonable suspicion specifically referred the reviewer toward additional material in the incident case.

Considering that the majority of these cases contained ARS documented in the GO report or Street Check, it is possible that a small number of supervisors sometimes do not make officers go back to document ARS twice if it is already documented in at least one place. Given time constraints on supervisors, this would be understandable, although contrary to policy. Such a practice—if it is occurring—would be a concern to SPD, but for the improvements to Terry reporting that will be provided in the Department’s new record management system, which is scheduled to be implemented in March of 2019. The new user interface will contain major improvements, most notably: (1) Terry reporting is more integrated into the system as a mainstream report type which will allow reports to be submitted and reviewed more easily and efficiently; and (2) the report cannot be submitted until officers have entered text into the narrative box requiring justification for the stop or frisk. Appendix A to this report contains a screen shot of the new Terry reporting user interface. These results demonstrate that the Department remains in sustained compliance with Paragraph 144 requirements with respect to supervision. The numbers reported here show sustained systemic compliance on the part of the officers with respect to documenting reasonable suspicion for stops and frisks, and do not indicate a lack of supervision. A very small percentage of cases (6.55%) lacked documentation of reasonable suspicion, and APRS’ review further demonstrated that for many of those cases the issue derived solely from the failure to document, rather than from a stop that was itself unlawful. In addition, SPD’s system is configured such that these cases could not be reported *without* supervisor review, and because of this system design, the data show that supervisors review and approve 100% of all Terry Templates.

Objective 2 – Training (Paragraphs 142 and 143)

Assess whether SPD is continuing to provide all Patrol officers with in-service training with respect to Terry stops on an annual basis, based on developments in applicable law and SPD policy.

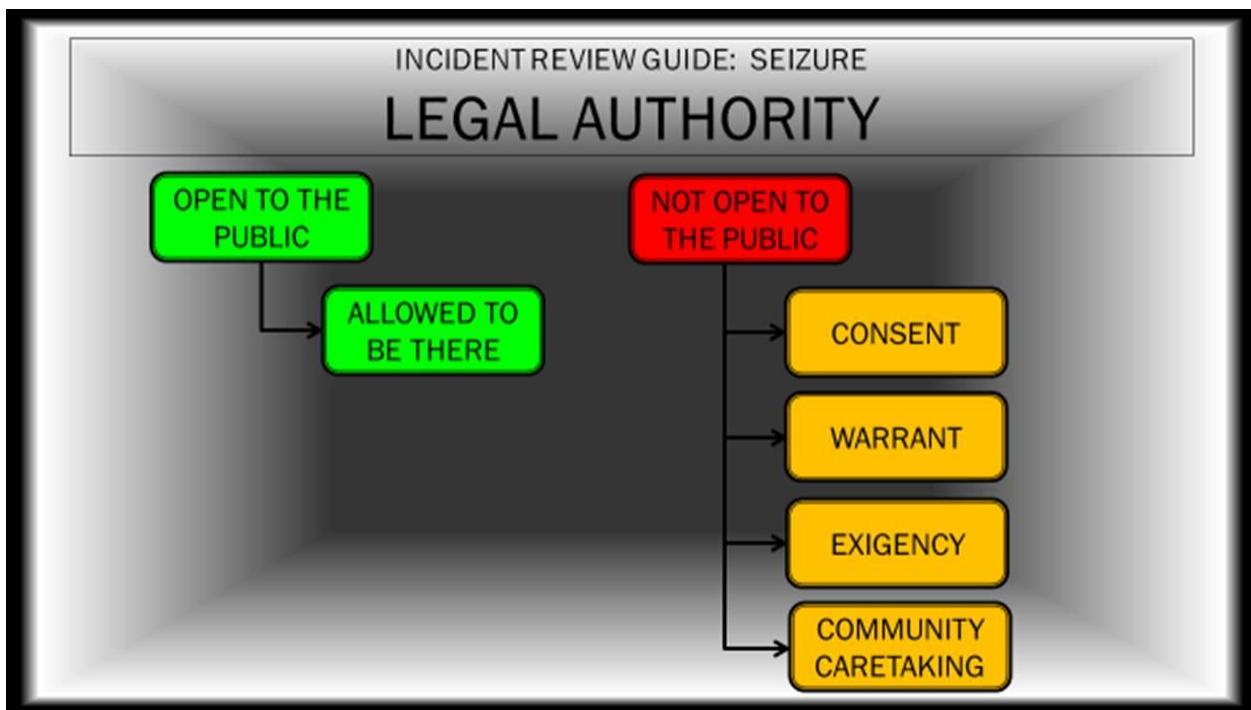
Annual training on stops and detentions is delivered as part of the Core Competencies training, an eight-hour block of instruction that includes a two-hour Legal Update. This training is required for all officers, detectives, and sergeants. The legal block covers concepts related to search and seizure, based on current and relevant law, policy and procedure, and training. Concepts include officers’ legal authority to be at the location of an incident and the lawful purpose for a contact. The instruction also reinforces lawful purpose as being determined by whether an officer is making a voluntary contact, or a contact based on reasonable suspicion or probable cause based on specific and articulable facts that a crime has occurred, is occurring, or is about

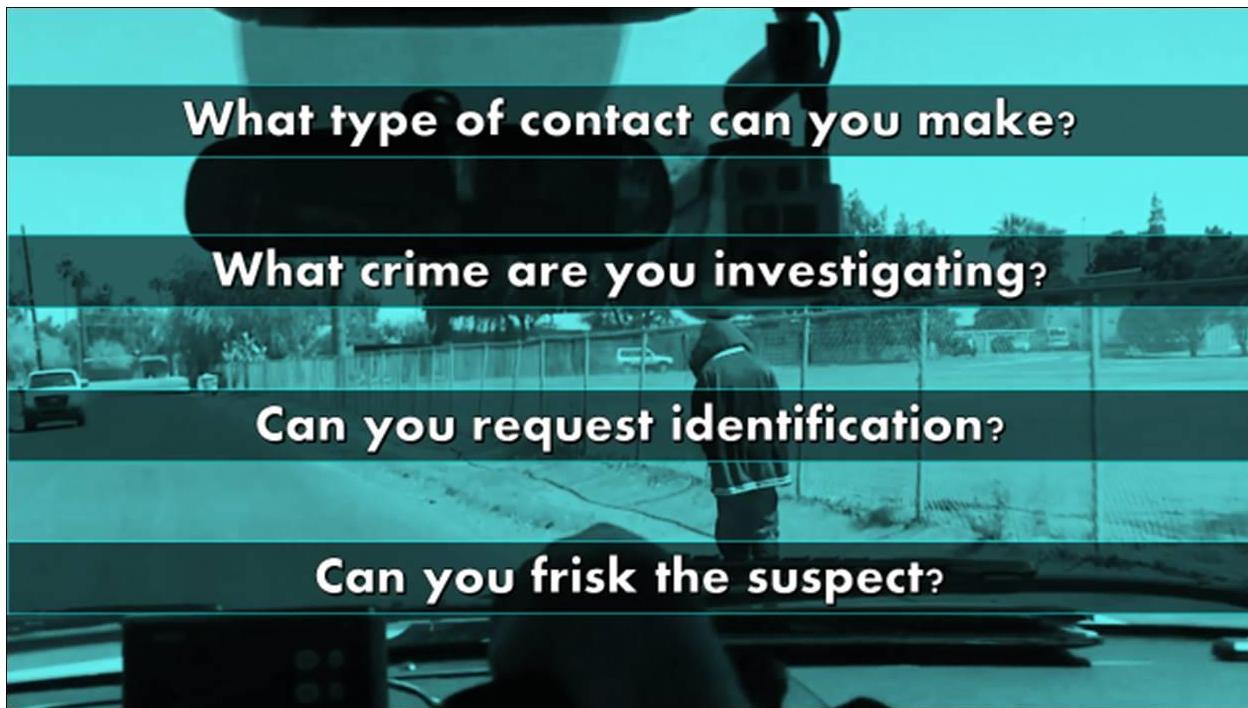
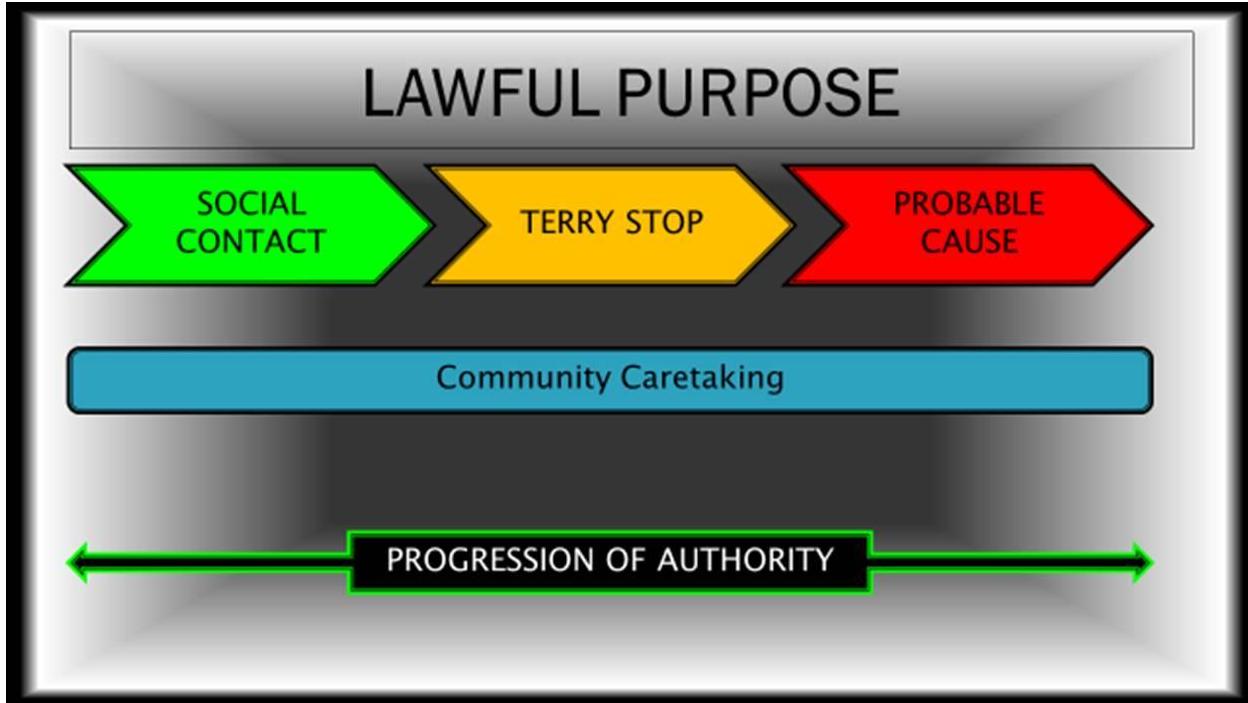
to occur. Where applicable, concepts related to de-escalation and the use of force are also reinforced.

This training provides opportunities for officers to practice articulating the underlying reasons for a given contact or seizure and emphasizes the importance that officers be able to clearly explain the circumstances of an incident, whether in writing their reports, screening arrests, or providing complete and convincing testimony in court. The training emphasizes that this ability is critical to providing effective policing and building community trust.

Concepts are delivered with a focus on experiential learning, accomplished via instructor-facilitated discussion, and utilizing informational slides and interactive exercises based on written or video presentation of realistic scenarios.

The following are two examples of informational slides and one example of a slide used to discuss a video vignette used during this block of instruction:





A separate four-hour, Command Level Core Competencies training is required for all Lieutenants, Captains, and Chiefs, and includes an overview of the 8-hour training provided to officers, detectives and sergeants received during their 2017 Core Competencies training. This overview includes the legal update.

The following are two examples of informational slides, and one example of a slide used to discuss a video vignette used during this block of instruction for commanders:

REASONABLE SUSPICION

Specific, objective, articulable facts, which, taken together with rational inferences, would create a well-founded suspicion that there is a substantial possibility that a subject has engaged, is engaging or is about to engage in criminal conduct

Seattle Police Department Manual 6.220—Voluntary Contacts, Terry Stops and Detentions

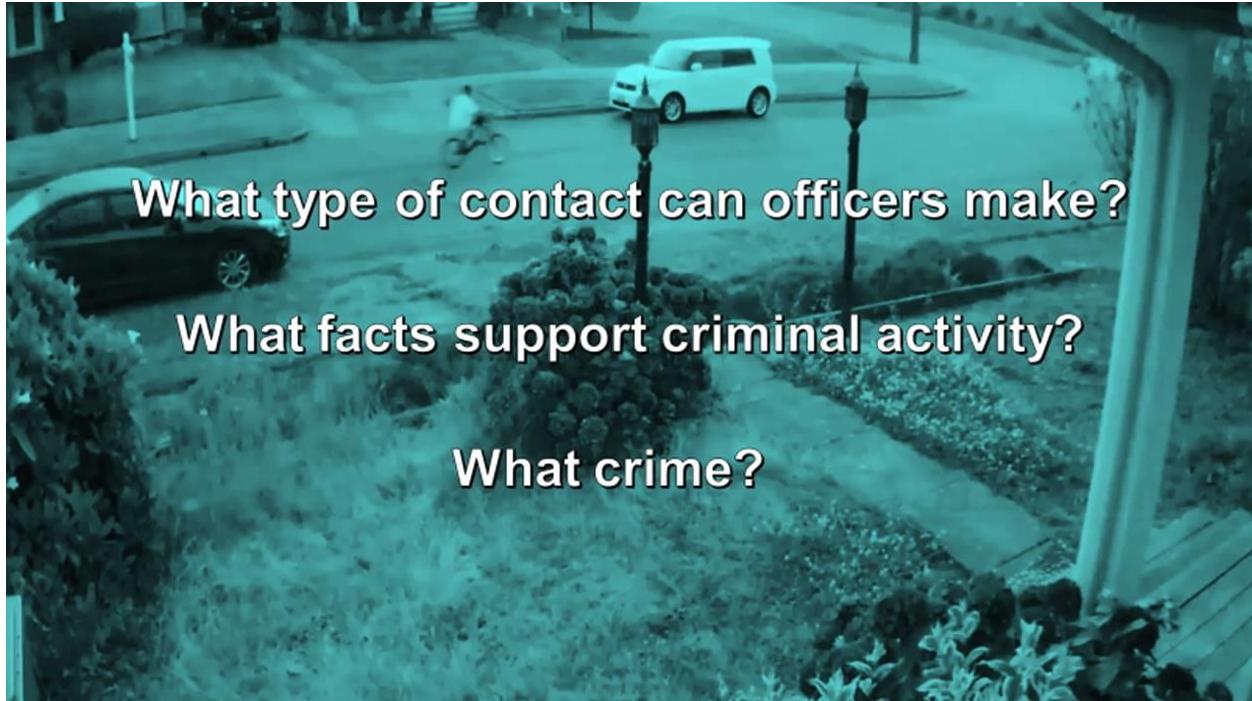
What information are you required to provide at the conclusion of a Terry Stop?

When releasing a person at the end of a stop, officers will offer an explanation of the circumstances and reasons for the stop.

Officers will provide the person a business card with the event number as a receipt.

Officers will not extend a detention to explain the stop or provide a receipt.

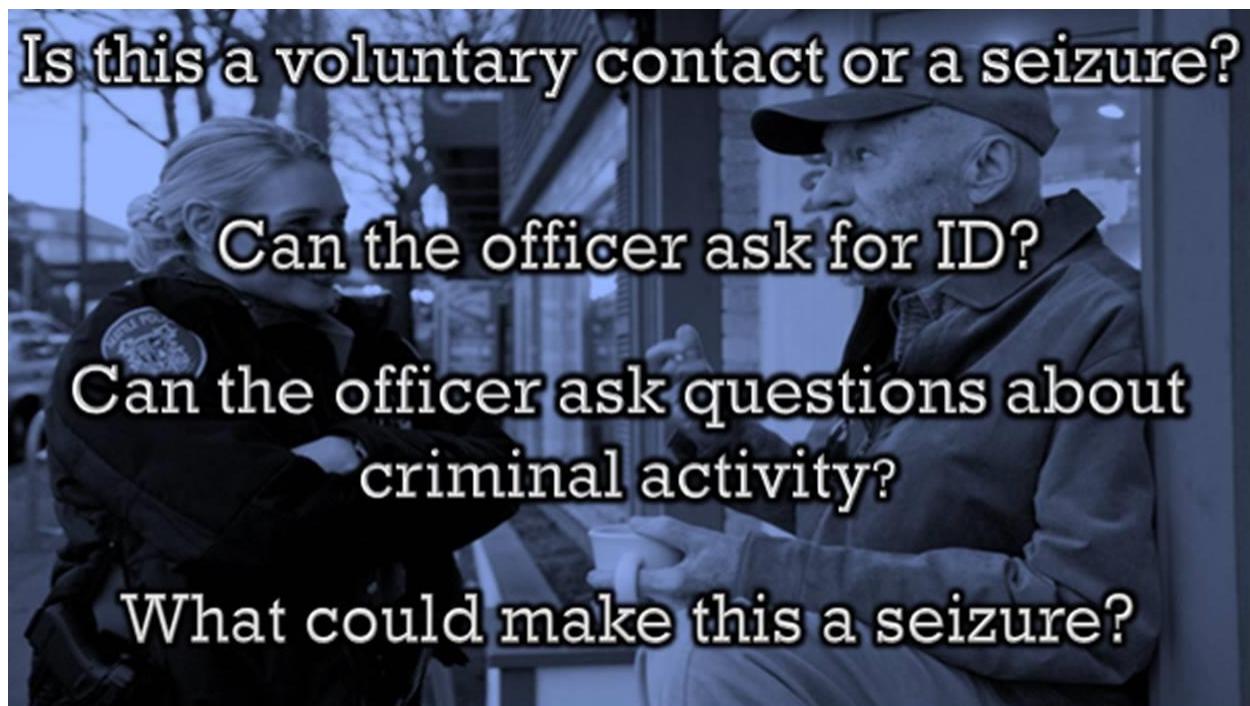
Seattle Police Department Manual 6.220—Voluntary Contacts, Terry Stops and Detentions

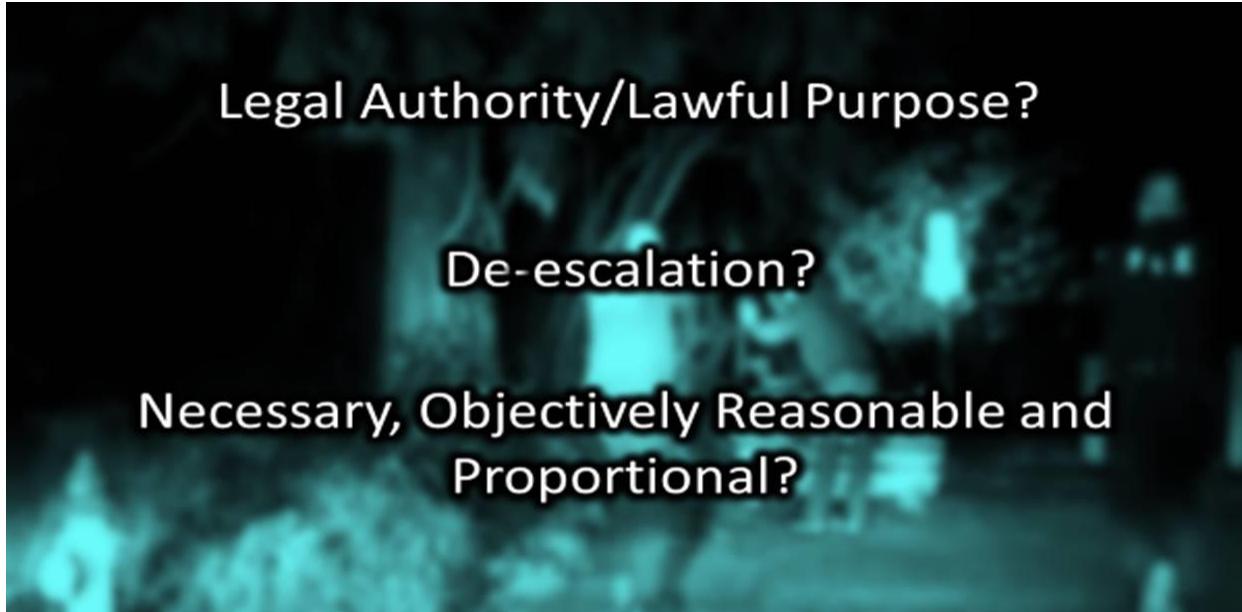


In addition, training specific to stops and detentions remained a core topic of SPD's Post-BLEA (Basic Law Enforcement Academy) training, a seven-week program required for all student officers following their graduation from the Washington State Criminal Justice Training Academy, prior to entering Field Training. In 2017, SPD provided 14 sessions of Post-BLEA training in 2017, attended by 100% of student officers.

In Post-BLEA training, student officers attend courses that include both classroom instruction and scenario-based training. One block of instruction covers Foundational Principles, an eight-hour block of instruction tailored for new officers that covers the same concepts around law, policy, and training as the 2017 Core Competencies legal block. This course provides student officers the opportunity to practice articulating the underlying reasons for a given contact or seizure. Much like the 2017 Core Competencies legal block, concepts are delivered with a focus on experiential learning, accomplished via instructor-facilitated discussion utilizing informational slides as well as interactive exercises based on written or video presentation of realistic scenarios.

The following are three examples of slides used during this block of instruction for student officers:





SPD training records confirm that of the 1,238 sworn personnel required to complete Core Competencies, 1,136 attended; of the 102 who did not complete this training, 96 were excused due to unavailability (military deployment, long-term medical leave, e.g.).

Of the 82 members required to attend Commander Core Competencies, 80 completed this course.

One hundred percent of student officers attended the required post-BLEA training.

In addition, principles around stops and detentions were interwoven into two specific Care Under Fire training scenarios that were presented through in-person training (in lieu of roll call training). These scenarios are as follows:

SAVE YOUR OWN LIFE (Drug buy gone bad)

Location: Large Center Opening #2

Performance Objectives

1. Student will recognize lethal threat and react accordingly.
2. Student must recognize an arterial bleed, and register that the scene is still hot with a threat present.
3. Student will access CAT and render self-aid for arterial bleed after getting to cover.
4. Student will resume defensive posture and communicate with rescuers.

Role Player Instructions / Student Officer Actions

Scenario #1

General Overview of Scenario

Dispatch: Officers will be dispatched to a report of a suspicious person at "Westlake Mall food court". Officers will be told the male is acting irrationally and causing a scene. Two officers will be dispatched.

Synopsis: Students will arrive on scene and enter into a large open area with tables and people milling about. They will encounter one subject in a fight suit acting irrationally but not presenting a threat. The other people in the room will be acting as though they are talking and eating. A role player behind the officers will be acting as though he is a drug dealer who just sold the other male drugs and now sees the cops arrive. This role player will come up behind the officers and engage the officers shooting each one in the leg before he is ultimately shot by the officers. Once the gun fire erupts the other role players will yell and scream and go running out of the room. The two officers will now need to seek out cover and begin to render aid on themselves.

Site Description: Large opening Number 2 in Federal Center South. In this opening there will be chairs and tables arranged to replicate an open food court.

Suicidal Office Worker

Location: Office room by pillar 5C

Performance Objectives

1. Student will recognize suicidal threat and react accordingly.
2. Student must recognize a brachial arterial bleed on the role player, and weigh the duty to act over the possibility of a present threat.
3. Student will access CAT and render aid for arterial bleed once RP has thrown the knife and stated they do not want to die any more.
4. Student will communicate with fellow rescuers.

General Overview of Scenario

Dispatch: Officers will be informed that a company manager is calling 911 to report an employee was terminated today for stealing money. That employee is now in their office holding a knife to their wrists threatening suicide.

Synopsis: Officers will arrive at the office which will be in full light and have a window and door giving the officers full view into the office. The officers will encounter a person in crisis holding a knife to their wrist. Officers will contact the person in crisis and attempt to de-escalate the situation. Officers will use Crisis Intervention Tactics in an attempt to gain compliance from the subject. After a few minutes of talking the subject will take the knife and cut their arm from wrist to bicep. The subject will then have a change of heart and tell officers they don't really want to die. The subject will comply with all of the officers' commands and drop the knife. Due to blood loss the subject will not be able to exit the room and will fall to the ground just inside the door. Officers will have to weigh out the danger of the knife and our lawful duty to act and prevent the loss of life. Officers will enter the room and render aid to the subject by applying a tourniquet to the arm where the injury is.

Site Description: Small office next to pillar 5C.

In sum, SPD continues to provide and require extensive and high quality training on stops and detentions and nearly 100% of its officers have completed this training (with the exception of officers who are on long-term leave). SPD continues to meet and exceed the requirements of paragraphs 142 – by shifting the scope of roll call training into more in-person scenario based training – 143 of the Consent Decree.

CONCLUSIONS AND NEXT STEPS

Consistent with its obligations under the Sustainment Plan, the purpose of this exploratory analysis was two-fold: first, to provide descriptive characteristics of *Terry* stop data sufficient to calculate an efficient and sufficiently precise sample for future analyses; and (2) to determine whether, systemically, the Department is continuing to demonstrate that, systemically, officers are specifically and clearly documenting reasonable suspicion when they conduct investigatory stops or detentions, conduct field interviews pursuant to *Terry* stops, and searches in the course of these stops. The results of these analyses suggest that an efficient sample, sufficiently precise to identify *Terry* templates lacking ARS for the stop in a population of 4,341 (6 months of data),

would be 482 (see Henry (1990)). This qualitative analysis as to the latter inquiry thus oversampled by approximately 200%.

The results of this audit show that, in the vast majority of cases, SPD officers are continuing to meet their consent decree requirements to specifically and clearly document their reasonable suspicion for a stop or frisk. Statistical approaches to quantifying the relationship between the perceived age, race and gender of the subject suggest the failure to adequately articulate reasonable suspicion is not related to those factors. Similarly, while officer experience is approaching statistical significance as a factor in ARS for both the stop and the frisk, probabilistic approaches fail to find significance for the effect.

A deeper review of case files associated with stops or frisks deemed, based upon review of the *Terry* template alone, lacking in articulated suspicion shows that in the vast majority of this smaller subset of instances, the observed deficiency was one of documentation, rather than legal basis. In addition to continued training and supervisor review, this is an issue that should be largely remedied through the March 31st implementation of the Department's new Records Management System, which will require the entry of specific fielded and narrative data around stops and detentions.

DOJ/MT Validation Section

In Phase I of the work of under the Consent Decree, DOJ and the Monitoring Team reviewed SPD's compliance with the requirements of the Consent Decree through 10 assessments, covering the roughly six topic areas of the Consent Decree: force investigation and reporting, crisis intervention, supervision, Early Intervention System ("EIS"), use of force, and stops and biased policing. By the end of 2017, the Monitoring Team and DOJ found the City of Seattle to be in compliance with each area. On that basis, the Court issued a finding of "full and effective compliance" with the requirements of the Consent Decree. By the terms of the Consent Decree, the City of Seattle is now required to demonstrate that it can sustain compliance with those requirements for a period of two years.

During Phase II of the Consent Decree work, the City of Seattle has taken over the lead role in conducting assessments of the six core topic areas of the Consent Decree. By taking this lead role, SPD must demonstrate not only sustained compliance, but also a willingness and ability to critically self-assess their own progress in these areas, which are central to effective and constitutional policing.

This does not mean, however, that the work of DOJ and the Monitoring Team is done. In Phase II, DOJ and the Monitoring Team are reviewing the City's proposed methodologies for each audit and are conducting their own independent research and analysis or "look behind" the City's review.

For this audit, DOJ and the Monitoring Team consulted with SPD and ultimately approved the methodology used by SPD in conducting its own self-assessment. DOJ and the Monitoring Team also requested and received a randomly generated sample of stops templates for the time period

January 10, 2018 to June 30, 2018. The sample set was comprised of 226 of the 1,400 stops templates reviewed by SPD. DOJ and the Monitoring Team, together with their subject matter experts, reviewed these stop templates for compliance with the terms of the Consent Decree relating to stops and detentions and SPD's policies regarding the same. DOJ and the Monitoring Team subsequently conferred about their findings and, based on their Phase II reviews, concluded as follows:

- The City of Seattle has demonstrated that it has sustained compliance with the stops and detentions requirements of the Consent Decree and SPD's policies governing the same, including requirements that officers report all *Terry* stops through a *Terry* template and that supervisors will review such reports by the end of that shift, absent exceptional circumstances. DOJ and the Monitoring Team have concluded that officers are routinely following these reporting requirements and the vast majority of their stops are supported by documented, articulable, reasonable suspicion.
- DOJ and the Monitoring Team likewise note that officers appear to be using appropriate and well-founded discretion in deciding when to effectuate an arrest after a stop. Further, when officers determine that there are not grounds for additional detention, officers appear to be releasing the subject in an appropriately expeditious manner.
- With respect to reporting, DOJ and the Monitoring Team note that officers actually appeared to over-report *Terry* stops by including circumstances in which the stop was supported by the higher standard of probable cause. Though over-reporting is preferable to under-reporting, we understand that SPD has issued guidance and policy revisions in order to address over-reporting out of concerns regarding officer time and resources. DOJ and the Monitoring Team are supportive of that clarification.

In the interest of continuous improvement, DOJ and the Monitoring Team offer the following technical assistance to SPD based upon issues spotted during their respective reviews. Although none of these issues rose to the level of systemic non-compliance with the terms of the Consent Decree, DOJ and the Monitoring Team strongly encourage SPD, and the Inspector General who will take over the audit function for this topic area in the future, to give attention to these matters going forward:

- For the most part, officers completing *Terry* templates explained how the subject who was stopped specifically matched the description issued by dispatch. However, in some templates, this information was missing and only a vague statement to the effect of "subject matched the dispatched description" was included. This vague description does not allow reviewers, including the officer's supervisor and later auditors, to ensure that the officer's articulable suspicion was reasonable. Accordingly, we encourage SPD to reemphasize through training and/or roll calls the importance of officers providing full match descriptions in *Terry* templates.

- We reviewed some templates that were incomplete on their face and required reference to additional documents (such as general offense reports or Street Checks documents) in order to be reviewed. This impedes the easy review and audit of *Terry* templates. However, we understand that an expected change to the records management system used by SPD in March 2019 is anticipated to correct this problem by streamlining the reporting format for officers. We will look forward to reviewing this change during the next stops audit.